

### **REMARKS**

In the March 17, 2010 Office Action, all of pending claims 1 and 4-6 stand rejected in view of prior art. No other objections or rejections were made in the Office Action.

#### ***Status of Claims and Amendments***

In response to the March 17, 2010 Office Action, Applicant has amended claims 1, 5 and 6 as indicated above. Thus, claims 1 and 4-6 are pending, with claims 1, 5 and 6 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of above amendments and the following comments.

#### ***Rejections - 35 U.S.C. § 103***

On pages 3-9 of the Office Action, claims 1 and 4-6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 5,666,015 (Uchibori et al.) in view of U.S. Patent No. 2,321,755 (Kost) and further in view of U.S. Patent No. 3,505,923 (Neill). Claims 1, 4 and 5 are also rejected as being unpatentable over the Uchibori et al. patent in view of the Kost patent and further in view of U.S. Patent No. 3,936,205 (Speakman). In response, Applicant has amended independent claims 1, 5 and 6 as mentioned above.

#### **Independent Claims 1 and 6**

Independent claims 1 and 6 now require, *inter alia*, an end plate (1) including a main section (50) and a projection (3), wherein the main section (50) includes a base section (9) placed on the upper end surface of the rotor (25) and an installation section (8) provided on a center portion of an upper face of the base section (9), and the projection (3) projects upward from an upper face of the installation section (8). See Figures 2-5 and paragraph [0025] of instant application. Also, independent claims 1 and 6 now require, *inter alia*, the oil separation plate (2) installed on the end plate (1) includes a central part having the through hole and a peripheral part opposed to and spaced from the upper face of the base section (9) of the end plate (19). See Figures 1-3 and 6, and paragraphs [0025]-[0026] of the instant application. Clearly this arrangement is **not** disclosed or suggested by the Uchibori et al. patent, the Kost patent, the Neill patent and/or the Speakman patent singularly or in combination.

The reference numerals used in the preceding paragraph are merely used for the Examiner's convenience in reading the claims with reference to parts of illustrated embodiment(s). However, including the reference numerals in the preceding paragraph should not limit the claims to the illustrated embodiment(s).

In the outstanding Office Action, the Office Action refers to the main reference, the Uchibori et al. patent, as disclosing the general configuration of the claimed compressor. However, the Uchibori et al. patent neither teaches nor suggests the claimed end plate with the configuration as now defined in amended claims 1 and 6, or the claimed positional relationship between the end plate and the oil separation plate as now defined in amended claims 1 and 6. The other references, the Kost patent, the Neill patent, and the Speakman patent, are cited merely in connection with the projection or the recess of the end plate. However, none of these references remedies the deficiencies of the Uchibori et al. patent with respect to the claimed end plate configuration or the claimed positional relationship between the end plate and the oil separation plate as now defined in amended claims 1 and 6. Therefore, it is believed that no matter how these references are combined with the main reference, the Uchibori et al. patent, it is impossible to arrive at the arrangements now set forth in independent claims 1 and 6.

#### Independent Claim 5

Independent claim now requires, *inter alia*, (a) the cone-shaped recess, which is formed on an upper face of the projection to be crushed, has an opening diameter (i.e., a diameter at an opening of the recess) of about 50% of an outer diameter of the projection and a depth of 10 to 15% of the outer diameter of the projection; and (b) the projected part of the projection, which is formed with the cone-shaped recess of such dimensions, is crushed by applying a downward pressing force to the projected part such that a bottom portion of the cone-shaped recess exists in a state of the projection being crushed.

The Office Action acknowledges that the Uchibori et al. patent does not disclose that the projection is crushed to integrate the oil separation plate (26) with the end plate (3). The Kost patent fails to disclose a cone shaped recess before crushing whatsoever, and is merely relied upon to disclose crushing a projection to secure a sheet metal plate. Thus, neither the Uchibori et al. patent nor the Kost patent disclose the features of (a) and (b). The Neill patent or the Speakman patent are relied upon to allegedly disclose the claimed cone-shaped recess

that is crushed/shaped as claimed. However, neither the Neill patent nor Speakman provides any teaching that meets both (a) and (b) at the same time. The Neill patent's recess 40, which the Office Action regards as corresponding to the claimed cone-shaped recess, has an opening diameter that is substantially the same as the diameter of a part 22. Therefore, the Neill patent's recess 40 does not meet the requirement (a). Also, the Neill patent's another recess 18 does not meet at least the requirement (b), as the Examiner admits. The Speakman patent's recess 41 meets neither (a) nor (b). See Figure 2 and col. 4, lines 18-22 of the Speakman patent. Thus, no matter how the Kost patent and the Neill patent or the Speakman patent are combined with the Uchibori et al. patent, it is impossible to arrive at the arrangement now set forth in independent claim 5.

Under U.S. patent law, the mere fact that the prior art can be modified does *not* make the modification obvious, unless an *apparent reason* exists based on evidence in the record or scientific reasoning for one of ordinary skill in the art to make the modification. See, KSR Int'l Co. v. Teleflex Inc., 127 S.Ct. 1727, 1741 (2007). The KSR Court noted that obviousness cannot be proven merely by showing that the elements of a claimed device were known in the prior art; it must be shown that those of ordinary skill in the art would have had some "apparent reason to combine the known elements in the fashion claimed." Id. at 1741. The current record lacks any apparent reason, suggestion or expectation of success for combining the patents to create Applicants' unique arrangements of claims 1, 5 and 6.

#### Claim 4

Moreover, Applicant believes that dependent claim 4 is also allowable over the prior art of record in that it depends from independent claim 1, and therefore is allowable for the reasons stated above. Also, dependent claim 4 is further allowable because it includes additional limitations, which in combination with the limitations of independent claim 1, are not disclosed or suggested in the prior art. Accordingly, withdrawal of these rejections of dependent claim 4 is also respectfully requested.

#### ***Prior Art Citation***

In the Office Action, additional prior art references were made of record. Applicant believes that these references do not render the claimed invention obvious.

Appl. No. 10/585,612  
Amendment dated June 17, 2010  
Reply to Office Action of January 19, 2010

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In view of the foregoing amendment and comments, Applicant respectfully asserts that claims 1 and 4-6 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested. If there are any questions regarding this Amendment, please feel free to contact the undersigned.

Respectfully submitted,

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